



MEMORANDUM

Not On
Agenda Item No. 12(A)(2)

TO: Honorable Chairperson Barbara Carey-Shuler, Ed.D. **DATE:** December 4, 2003
and Members, Board of County Commissioners

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: K-Mart Corporation,
et al., Debtor
Case No. 02-BO2474
K-Mart Corporation,
Et al v. Anchorage,
Alaska Municipal Tax
Assessor, et al.
Adv. Case
No. 03-AO 1846

The Tax Collector filed a claim for unpaid 2002 personal property taxes, owed in the current amount of approximately \$361,000.00. This claim, and the tax claims of all the Florida tax collectors, were objected to by K-Mart. The Palm Beach County Tax Collector, John Clark, has made his in-house counsel, Brian Hanlon, available to coordinate the defenses of the claims and to appear on behalf of all the collectors. Mr. Clark has also funded the required hiring of local counsel in Chicago. The Tax Collector agreed, and confirmed the agreement in writing, to contribute up to \$500.00 to help defray Mr. Clark's costs.

K-Mart has also filed an adversary proceeding against the creditor taxing authorities throughout the country challenging the 2001 and 2002 assessments of personal property. The 2001 taxes had been paid, and assuming the same ballpark amount for each tax year, the litigation involves over \$700,000.00 in taxes. The Florida property appraisers, tax collectors and the Department of Revenue are included as defendants. Mr. Hanlon only represents the tax collectors. The Florida parties agree that coordination among them and designation, to the extent possible, of lead counsel best protect the interests of all concerned. The Miami-Dade Property Appraiser wishes to have B. Jordan Stuart, Esq., appear on his behalf. Ms. Stuart is representing at least eleven other appraisers as well. Ms. Stuart has already engaged Chicago bankruptcy counsel. She asks that each property appraiser pay an equal share of her \$160.00 hourly billing rate, plus an equal share of costs. She will handle all substantive work, and expects the cost of local counsel in Chicago to be minimal.

K-Mart is being aggressive in its multiple attacks on tax claims. It is possible, however, that the ultimate result will be consistent with the vast majority of bankruptcies – informal resolution of claims issues. At the present time, I believe that joining in the coordinated efforts of other property appraisers and tax collectors not only makes sense legally, but economically.



MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

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FROM: Robert A. Ginsburg
County Attorney

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Please note any items checked.

- ☒ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**
- ☐ **6 weeks required between first reading and public hearing**
- ☐ **4 weeks notification to municipal officials required prior to public hearing**
- ☐ **Decreases revenues or increases expenditures without balancing budget**
- ☐ **Budget required**
- ☐ **Statement of fiscal impact required**
- ☐ **Bid waiver requiring County Manager's written recommendation**
- ☐ **Ordinance creating a new board requires detailed County Manager's report for public hearing**
- ☒ **Housekeeping item (no policy decision required)**
- ☐ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Not On
Agenda Item No. 12(A)(2)
12-4-03

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE COUNTY ATTORNEY
TO ENGAGE THE SERVICES OF B. JORDAN STUART OF
WOOD & STUART, P.A. TO REPRESENT THE PROPERTY
APPRAISER IN THE K-MART BANKRUPTCY
PROCEEDINGS AND AUTHORIZING EXECUTION OF THE
ENGAGEMENT LETTER IN SUBSTANTIALLY THE FORM
ATTACHED

WHEREAS, K-Mart has filed bankruptcy in Chicago owing Miami-Dade
County approximately \$361,000 in personal property taxes for the 2002 tax year;
and

WHEREAS, K-Mart has filed adversary proceedings throughout the
country challenging the 2001 and 2002 personal property tax assessments; and

WHEREAS, several Florida property appraisers have engaged the
services of B. Jordan Stuart of the law firm of Wood & Stuart, P.A. as lead
counsel to coordinate their representation in this bankruptcy; and

WHEREAS, the Miami-Dade Property Appraiser and the County
Attorney recommend the engagement of Ms. Stuart for these purposes,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF
COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA,**
that this Board authorizes the County Attorney to engage the services of B. Jordan
Stuart of Wood & Stuart, P.A. to represent the property appraiser in the K-Mart

bankruptcy proceedings and authorizing execution of the engagement letter in substantially the form attached.

The foregoing resolution was offered by Commissioner ,
who moved its adoption. The motion was seconded by Commissioner
and upon being put to a vote, the vote was as follows:

Dr. Barbara Carey-Shuler, Chairperson	
Katy Sorenson, Vice-Chairperson	
Bruno A. Barreiro	Jose "Pepe" Diaz
Betty T. Ferguson	Sally A. Heyman
Joe A. Martinez	Jimmy L. Morales
Dennis C. Moss	Dorin D. Rolle
Natacha Seijas	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of December, 2003. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

RAG

Robert A. Ginsburg

Wood & Stuart, P.A.

www.woodstuartpa.com

Attorneys at Law

304 S. W. 12th Street

Fort Lauderdale, Florida 33315

Gaylord A. Wood, Jr. (954) 463-4040, Fax (954) 764-5734

B. Jordan Stuart _____

206 Flagler Avenue

J. Christopher Woolsey

New Smyrna Beach, Florida 32169

(386) 424-9908, Fax (386) 424-9948

Reply to New Smyrna Beach

DATE

Hon. _____

SAMPLE ONLY

_____ County Property Appraiser

Address

Dear _____:

It will be an honor to be of assistance to you in the legal representation of your office in reference to the adversary brought by K-Mart Corp., as Debtor in Bankruptcy.

The following will memorialize our arrangements for the fiscal year ending September 30, 2004.

We will represent your office in matters mutually agreed upon between your office and any member of our firm. The fiscal arrangements are as follows:

\$155.00 per hour--office work and meetings
\$165.00 per hour--depositions, hearings and trials
\$ 55.00 per hour--supervised paralegal services

These fees will be shared with our other clients who are Defendants in the case.

Additionally, we shall bill you for an equal share for travel, pro rata, at the rate of \$60.00 per actual hour inter-city, by private aircraft or automobile, or the actual cost of a tourist or similar class ticket or lesser

fare, for travel by scheduled airline. Overnight lodging will be charged at actual room cost, exclusive of any food charges. An attempt will be made to find the most reasonable rates for lodging.

In the event that we make actual cash expenditures on your behalf, or costs of court are involved, we will advance those costs initially, but they will be paid by you upon our submission of invoices therefor. You agree to indemnify us if we are sued in an action arising out of our representation of your office.

This agreement shall be cancelable by either you or us upon (10) ten days written notice, without stating any reason. The terms of this agreement shall be in effect from November 21, 2003 through September 30, 2004 or the conclusion of the K-Mart Adversary case, whichever comes first.

If this correctly states our agreement, please approve the copy of this letter and return it to us for our files.

Sincerely,

WOOD & STUART, P.A.

By: _____
B. Jordan Stuart
for the Firm

BJS/II

APPROVED:

Hon. _____ County Property Appraiser

Dated: _____